IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 12709 of 2004

Between:

1.Mallidi Eswareddy, S/o. Krishna Reddy, Hindu,
R/o. H.No. Old 6-238, New 6-398, Canal Road, Anaparthi Village &

Mandal, E.G. District.
2.Nallamalli, Suryanarayana Reddy, S/o. Satyanarayana Reddy, Hindu,
R/o. H.No. Old 6-239, New 6-399, Canal Road, Anaparthi Village &

Mandal, E.G. District.

..... PETITIONERS

AND

1 The Assistant Engineer, Irrigation Department,
Biccavolu Mandal, East Godavari District.
2 Superintending Engineer, P.W.D. Biccavolu Mandal, East Godavari District.
3 Executive Engineer, P.W.D. Dowalaiswaram, East Godavari District.
4 Mandal Revenue Officer, Anaparthi Mandal, East Godavari District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents, their men or any one claiming through them, not to cause demolition of the Petitioners' premises situate on the left berm of Samalkot Canal in Anaparthi Village, East Godavari District Limits at M.12/1,2 & M12/3,4 Left Bank.

Counsel for the Petitioners: MR.K.GANI REDDY

Counsel for the Respondents : GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.12709 OF 2004

ORDER:

The petitioners allege that they are the licensed occupiers of the PWD site, which is part of the left berm of Samalkot canal situated in Anaparthi village, limits at M.12/1,2 and M.12/3,4, East Godavari District. Respondents 2 and 3 have given permissions after considering the width of the berm for construction of series of shops and business places in 1978, that the petitioners constructed the shops and since then they have been doing business in the said site only. Alleging that the respondents 2 to 4 have started demolishing the business places of the petitioners, they filed this writ petition seeking a declaration that the action of respondents without following due process of law under the provisions of the A.P.Municipalities Act, 1965, or the Land Acquisition Act, 1894 or other laws is arbitrary and illegal.

Heard the learned Standing Counsel for the respondent – Municipality.

In **P.Lakshmana Rao v. Executive Officer,** a Division Bench of this Court issued directions to be followed by Municipal authorities, Panchayat authorities and Revenue authorities for acquiring the land for public purpose. Having regard to the decision of the Division Bench, I have considered similar issue in a number of writ petitions and culled out various principles of law to be followed by the Government while acquiring/utilizing the private land for road widening. The principles were reiterated by my learned brother, Sri Justice B.Sudershan Reddy in **M.Madhavi Latha v. Rajendranagar Municipality**. The principles laid down by the Division Bench are as follows.

> (1). Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.
>
> (2). If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections, if

any, from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment or unauthorised occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

(3). In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

(4). If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

(5). In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R&B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

(6). If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status quo obtaining as on today regarding the structures.

The writ petition is disposed of as above directing maintenance of status quo as on today. No costs.

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(V.V.S.RAO,J)

24.06.2005.

pln

To

1 The Assistant Engineer, Irrigation Department,
Biccavolu Mandal, East Godavari District.
2 Superintending Engineer, P.W.D. Biccavolu Mandal,
East Godavari District.
3 Executive Engineer, P.W.D. Dowalaiswaram, East Godavari District.
4 Mandal Revenue Officer, Anaparthi Mandal, East Godavari District.

5 Two CCs to Government Pleader for Irrigation and Command Area

Development, High Court Buildings, Hyderabad (OUT).

6 2 CD copies.